

REMARKS

In paragraphs 2-3 of the Detailed Action, the Examiner states that claims 1, 4, 5-9, 12-17, 20-21 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 14-18 of U.S. Pat. No. 6,632,846. Further, the Examiner rejects claims 2, 3, 10, 11, 18, 19 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 14-18 of U.S. Pat. No. 6,632,846 in view of Van der Burgt *et al* (US 4,433,065). Pursuant to 37 CFR 1.321(c), Applicants timely file the terminal disclaimer attached hereto for the purpose of overcoming an obviousness-type double patenting rejection.

Pursuant to 37 C.F.R. 1.130(b), a timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground, provided that the conflicting application or patent is shown to be commonly owned with this application. As set forth by the recordation cover sheet and accompanying documents (previously filed and copy attached hereto), Rentech, Inc. owns both the conflicting patent U.S. Pat. No. 6,632,846 and the subject application S/N 10/612,573. Accordingly, the attached timely filed terminal disclaimer may be used to overcome the Examiner's rejection which is based on a nonstatutory double patenting ground.

A terminal disclaimer filed to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed.Cir. 1991). There, the court indicated that the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." Similarly, in the instant case the filing of the attached terminal disclaimer simply overcomes the Examiner's grounds for rejection; it raises neither a presumption nor estoppel on the merits of the rejection.

Applicants respectfully request the Examiner to pass this application to allowance.

Respectfully Submitted,



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